

Guide for Board of Review Members



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Guide for Board of Review Members

PREFACE

The purpose of this guide is to assist Board of Review members in Wisconsin understand their statutory duties. This guide contains a topical index, a flowchart of Board of Review functions, related court cases, a glossary of property tax terms, and Board of Review forms.

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Table of Contents

	Page
INTRODUCTION	1
PROFILE OF THE BOARD OF REVIEW	1
Are all Wisconsin Boards of Review the same?.....	1
Who makes up the Board of Review?	1
Can the Board of Review act as the assessor?	2
What should the Board of Review do at their first meeting?	2
Are all members of the Board of Review required to attend the hearings?.....	2
Can members be removed from a Board of Review hearing?	2
How many members of the Board of Review are required to make a determination?	2
When does the Board of Review meet?.....	2
What happens if the assessment roll is not complete?	3
Is the assessment roll ever open for public review?	3
Are Board of Review meetings open to the public?	3
What are the duties of the Board of Review Clerk?	3
What are the general procedures at the Board of Review?	4
What are the duties of Board of Review Chairperson?	4
ASSESSOR AND PROPERTY OWNER RESPONSIBILITIES	
What are the duties of the Assessor immediately preceding the Board of Review?	5
What are the duties of the Assessor at the Board of Review?	5
What are the responsibilities of the objecting owner before and at the Board of Review?	5
Does the Assessor have to notify property owners of changes in their assessments?	5
HEARINGS	
Does the municipal clerk have to notify property owners of the time and place of the Board of Review Hearing?	6
You stated that the published notification contains time, place and <i>other information</i> . What other information?	6
Does the Board of Review have to notify property owners of the time and place of their hearing?	6
Does the municipal clerk have to notify property owners of the time and place of a <i>remanded</i> Board of Review hearing?	6
What is the role of the municipal attorney at the Board of Review?	6
Who are the typical parties at Board of Review hearings and who has the authority to ask questions?	7
Where should the Board of Review meet?.....	7

Guide for Board of Review Members

Table of Contents

(Continued)

	Page
PRESENTATION OF EVIDENCE	
What is meant by a “presumption of correctness?”	7
How must property owners file an objection in order to appear before the Board of Review?	7
Must the Board of Review be notified that an objection may be filed?	7
How does the Board of Review proceed when denying an objector a hearing?	7
Are there time limits for appealing to the Board of Review?	8
Can property owners appeal part of their assessment?	8
Can property owners appeal the classification of their property?	8
Can Board of Review members appeal their own assessments?	9
What type of evidence is available to the Board?	9
Need all testimony be given under oath?	9
What is meant by a Quorum?	9
DECISIONS OF THE BOARD OF REVIEW	
How should the Board reach a decision?	10
Are Board of Review members subject to penalties for misconduct?	10
What notification is needed at the end of a Board of Review hearing?	10
Can a Board of Review adjust an assessment not complained of by the owner?	10
APPEAL PROCESS	
How can a property owner appeal a Board of Review decision?	10
How can a property owner appeal a Board of Review decision to the Wisconsin Department of Revenue?	11
How can a property owner appeal a Board of Review decision to Circuit Court?	11
Can a circuit court decision be appealed to a higher court?	11
Can an appellate court decision be appealed to a higher court?	11
BOARD OF REVIEW FLOWCHART	12
BOARD OF REVIEW COURT CASE DECISIONS	13
GLOSSARY	19
BOARD OF REVIEW STATUTORY INDEX	22
BOARD OF REVIEW FORMS	24

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Introduction

This Guide helps Board of Review members understand their statutory duties. The Office of Assessment Practices of the Wisconsin Department of Revenue prepared this Guide. The Department designed this Guide as a resource document for Board of Review members. This Guide contains a topical index of responsibilities and procedures, a flow chart of the Board of Review functions, and a glossary of property tax terms. An index of important court cases and legal opinions about the Board of Review also exist.

Each municipality in the State of Wisconsin has the legal authority to create a Board of Review. The Board of Review is a quasi-judicial (court-like) body **empowered with three primary duties**:

1. Boards of Review can adjust assessments **when they have been proven incorrect by sworn oral testimony**.
2. Boards of Review can correct any errors or omissions in the descriptions or computations found on the assessment roll.
3. Boards of Review can check the assessment roll for omitted property and double assessments.

For Wisconsin property owners who want to appeal their property assessments, the first formal step in the appeal process starts at the Board of Review. Before property owners can appeal further, they must **first** appeal to the Board of Review.

Statute and case law define the authority of Boards of Review. Many court cases about Board of Review proceedings exist. The following statements describe Board of Review authority.

- Boards of Review are legally bound to accept the assessor's assessment as correct unless there is evidence **that proves the assessment to be incorrect**.
- Boards of Review are **not** to assess property. Their duty is to hear sworn, oral testimony about assessed values and based **solely on that testimony** to decide whether an individual has proven the assessment to be incorrect.
- Boards of Review do **not** have the authority to exempt or to not exempt property from taxation.

Sections 70.46 through 70.48 of Chapter 70 of the Wisconsin Statutes describe the authority, structure, and procedures for Boards of Review. This Guide uses these statutes and case law to define the responsibilities of Wisconsin Boards of Review.

Are all Wisconsin Boards of Review the same?

No, different types of Boards of Review in Wisconsin exist depending on the size of the municipality and the nature of the assessment system. Board of Review membership varies for each of the following:

- Towns
- Villages
- Cities other than 1st class
- 1st class Cities

Who makes up the Board of Review?

Each of the above need a different type of Board of Review membership as follows:

Town Board of Review members include:

- The town supervisors
- The town clerk (if elected to the office of town clerk—s. 70.46(1m), Stats.)
- Other members by ordinance

Village Board of Review members include:

- The president
- The village clerk
- Other members by ordinance

Cities other than 1st Class Board of Review members include:

- The mayor
- The city clerk
- Other members by ordinance

NOTE: Any Board of Review for the above municipalities can be composed of citizens, public officers, or public employees. In **no** case, however, can the assessor be a member of the Board of Review. If, by virtue of another office, the assessor becomes eligible as a member of the Board of Review, the governing body must select a substitute member for the Board.

1st Class Cities Board of Review members include:

- Five to nine residents of the city

NOTE: Members of the Board of Review are appointed by ordinance. Members can **neither** hold public office **nor** be publicly employed. The members are appointed by the mayor with approval by the Common Council and hold office for staggered five-year terms.

Can the Board of Review act as the assessor?

No. Members of the Board are **not** to do the work of the assessor nor can they substitute their judgement or opinion of value for the assessor's. The assessor is solely responsible for making assessments.

What should the Board of Review do at their first meeting?

At the first meeting of the Board of Review, the Board should:

- select a chairperson
- select a vice-chairperson
- verify that a member has met the mandatory training requirements specified in sec. 70.46 (4), Wis. Stats.
- receive the assessment roll and sworn statements from the clerk
- examine the roll and correct errors in description or computation, and add omitted or eliminate double assessed property
- verify with the assessor that open book changes have been included in the assessment roll
- be in session at least 2 hours
- allow taxpayers to examine assessment data
- schedule written objections to be heard
- grant waivers of the required 48-hour notice of intent to file an objection during the first two hours for good cause
- hear written objections if notice was given by the board to the property owner and assessor at least 48 hours earlier, or if both waive the requirement
- create a new hearing schedule for written objections filed but not heard

If the board finds a problem with **uncontested** property, it should:

1. notify the owner or agent of its intent to review the assessment and the date, the time, and the place of the hearing.
2. subpoena witnesses as it deems necessary to testify about the value of the property.
3. conduct the hearing according to the procedure established in s. 70.47(8).

Are all members of the Board of Review required to attend the hearings?

No. At least two members of the Board must attend any hearing of evidence. In instances where a member or members has been removed under sec. 70.47 (6m), at least three members are needed for the hearing. In either case, evidence must be recorded and shared with a quorum prior to a determination.

Can members be removed from a Board of review hearing?

Yes. Except for a first or second class city, the municipality must remove a member from a hearing for several reasons:

- When an objector who is timely providing written or oral notice of an intent to file an objection requests the removal, except that no more than one member of the board of review may be removed under sec. 70.47 (6m).
- When a member of the board of review has a conflict of interest under an ordinance of the municipality in regard to the objection.
- When a member of the board of review has a bias in regard to the objection and a party requests the removal of a member for a bias. The party must submit with the request an affidavit stating that the party believes that the member has a personal bias or prejudice against the party and stating the nature of that bias or prejudice.
- When a member of a board of review who would violate s. 19.59 by hearing an objection recuses himself or herself from that hearing. The municipal clerk shall provide to the department of revenue an affidavit declaring whether the requirement under this paragraph is fulfilled.

If a member or members are removed or recused under this law, the board may replace the member or members or its remaining members may hear the objection, except that no fewer than 3 members may hear the objection.

How many members of the Board of Review are required to make a determination?

A majority of the Board of Review members shall constitute a quorum for purposes of making a determination. A majority vote of the quorum shall constitute the determination. All Board members participating in a determination must have **either** (a) attended the hearing, **or** (b) reviewed a recorded transcript of the hearing at least five days before making the determination.

When does the Board of Review meet?

Municipal Boards of Review must meet:

- annually
- anytime during the 30-day period beginning on the second Monday in May

All Boards of Review must be in session at least 2 hours. The Board of Review session can vary from these guidelines if the municipal governing body, by ordinance or resolution, designates other meeting hours. If this is

done, the Board may schedule a meeting time between 8:00 a.m. and 12 midnight with the meeting being at least 2 hours in length.

After this first meeting, the Board may then adjourn at its own discretion from time to time, until its business is completed. However, whenever the Board adjourns to a date beyond the next succeeding day, the clerk must post a written notice on the meeting place door, stating the date and time of the adjourned meeting.

What happens if the assessment roll is not complete?

If the assessment roll has not yet been completed by the above dates, the Board should do the following:

- Hold an initial meeting during the 30-day period.
- Adjourn until the roll is completed.
- The clerk of the Board of Review should post a written notice on the outer door of the place of meeting including notice of what time the meeting is adjourned.
- On the adjourned meeting date when the roll is finally completed, the Board must be in session the hours required by statute or as established by ordinance.

Is the assessment roll ever open for public review?

Yes. The completed assessment roll becomes a public document after the assessor completes the roll and the roll is delivered to the municipal clerk (in Milwaukee, to the Commissioner of Assessments). At least 15 days before the roll is to be open for examination, the clerk should publish proper notice in anticipation of delivery of the roll. This notice should declare the days on which the assessment roll will be open for examination by the property owners of the district. The assessor must be present at this open examination for at least two hours. On examination, the assessor may make necessary changes to “perfect the roll.” After making corrections, the assessor signs the affidavit and the clerk receives the roll for submitting to the Board of Review.

Are Board of Review meetings open to the public?

Yes. No formal action of any kind may be introduced, deliberated upon, or adopted at any closed session of the Board of Review. At least 15 days before the first session of the board of review, the clerk of the board of review must publish a class 1 notice. Also, the clerk must place a notice in at least three public places and place a notice on the door of the town (or village) hall, of the council chambers or of the city hall of the time and place of the

first meeting of the board of review. (The clerk should consult the statutes for other information that must be included on the notice.)

What are the duties of the Board of Review Clerk?

The clerk of the municipality is usually the clerk of the Board of Review. The clerk plays an important administrative role at the Board of Review. The following summarizes the clerk's Board of Review related duties:

- The municipal clerk must post and publish the required notices of meetings as provided by the statutes.
- After receiving the assessment roll from the assessor, the Board of Review clerk should carefully examine it, correcting all double assessments, imperfect descriptions, and other apparent errors.
- The Board of Review clerk should add omitted real or personal property and immediately notify the assessor. The assessor then views the property, estimates the value and certifies the value to the clerk.
- The Board of Review should certify all 70.43 corrections of error.
- If the Board of Review adjourns for more than one day, the clerk should post a notice of the adjournment.

With the exception of first-class cities, the clerk is a voting member of the Board. However, when the town, village or city by ordinance provides for a citizen's Board of Review, the municipal clerk may act as the clerk of the Board of Review, but is **not** a member of the Board. Consequently, this clerk does not have a vote on the objections heard by the Board. Moreover, town clerks (and treasurers) appointed under Section 60.30 (1e) may not hold a seat on the Board of Review. In 1st class cities, the Commissioner of Assessments—or any person designated by the Commissioner—acts as the clerk of the Board of Review.

- The Board of Review clerk should keep an accurate record of all the Board's proceedings. If the proceedings are recorded, the clerk should keep a list of persons speaking and the order in which they spoke.
- The Board of Review clerk should swear in all persons testifying before the Board, including the assessor.
- The Board of Review clerk should enter in red ink all corrections in the assessment roll that have been made by the Board.
- **Prior** to final adjournment, the Board of Review clerk should notify each objector by personal delivery or mail (return receipt required) of the assessment as determined by the Board. This notice must be on the proper form (PR-302) as prescribed by the Department of Revenue. The form is available from each county forms designee. The clerk of the Board must also prepare an affidavit specifying the date the notice was mailed.

- After the Board of Review has completed its work, the Board of Review clerk should summarize the proceedings and decisions on the Department of Revenue prescribed form (PA-800) available from the county forms designee. The clerk should retain this summary as part of the Board of Review records.
- The municipal clerk provides an affidavit to the Department of Revenue stating whether the Board of Review training requirement has been met.
- In instances where a member has recused himself or herself from a board of review hearing under sec. 70.47(6m)(b), the municipal clerk provides an affidavit to the Department.
- The municipal clerk provides any written comments received to the appropriate officer.
- Upon final adjournment of the Board of Review, the Board of Review clerk should complete the "Statement of Assessments" and send it to the Supervisor of Equalization.

NOTE: The clerk is the official custodian of all the Board of Review documents and forms. This includes the assessment roll, personal property statements, written objections, the meeting notices, tape recordings and all other material submitted to the Board of Review. These materials must be retained for at least seven years and should be available for public inspection to the extent of the law.

What are the general procedures at the Board of Review?

The Board shall hear under oath all persons who appear before it. They can take evidence by telephone from ill or disabled persons who have presented a letter from a physician, surgeon, or osteopath that confirms their illness or disability. The Board of Review hearing shall proceed as follows:

- The clerk shall swear all persons testifying before it in relation to each contested assessment.
- The owner, or the owner's representatives and witnesses should be heard first.
- The Board may examine under oath, such persons as it believes have knowledge of the value of the property being appealed.
- The Board may require witnesses to attend a Board of Review hearing. If assessors request witnesses, the Board will require witnesses to attend. The Board can allow objectors to testify by telephone. The Board may require the presence of records and documents to help show the value of properties in question.
- A stenographer or tape recorder should record all proceedings and shall be paid by the municipality. The Board may order a transcription of the testimony presented at the hearings. In cases of an appeal or other court

proceedings, testimony **must be transcribed**. Even though the proceedings are recorded, members of the Board should still take notes of testimony given. These notes provide a source of reference when reaching a decision on a property owner's objection.

- During any meeting, if it determines that some of the written objections can not be heard at the scheduled time, the board creates a new schedule and abides by the 48-hour notice requirement.
- The board enforces (and in some cases waives) the requirement for objections to be filed timely in a manner consistent with state law.
- The board removes members under specific circumstances as described in state law.
- The board requires that objection forms include stated valuations of the property in question.
- The board makes all determinations by roll call vote.
- Barring a sufficient showing by the objector to the contrary, the board should assume that the assessor's valuation is correct.
- As a result of its deliberations, the board must state on the record the correct assessment and that the assessment is reasonable in light of all relevant evidence that the board received.
- The Board should not adjourn to a future date without setting the hour and day they shall meet. A notice of such an adjournment should be posted on the outer door of the meeting place. Prior to the final adjournment, the Board of Review shall provide to all parties contesting an assessment, (1) a written notice of the amount of the assessment finalized by the Board, and (2) an explanation of appeal rights and procedures.

What are the duties of the Board of Review Chairperson?

The chairperson of the Board of Review has the following responsibilities:

- Prior to convening the board, verify that the mandatory training requirement of a member has been complied with.
- Prior to convening the board, verify that the municipality or county has provided by ordinance for the confidentiality of information about income and expenses that is provided to the assessor in accordance with sec. 70.47 (7)(af).
- Direct all present to conduct the meeting in an orderly and legal manner.
- Verify that each objection is written and complete. The forms to use are PA-115A (real estate) and PA-115B (personal property). The county forms designee has these forms.
- Remind all witnesses that they are required to present relevant evidence regarding the value of the contested property.
- Monitor the Board's activities. Make sure the Board stays within its legal role as a quasi-judicial body.

- Confirm that all relevant evidence needed to make an informed decision is presented. Question witnesses and, if necessary, subpoena witnesses and records.
- Request that the municipal attorney represent the Board and its members at the Board of Review hearing. (optional)

What are the duties of the Assessor immediately preceding the Board of Review?

Before the Board of Review meets, the assessor should do the following:

- Review the assessment roll for proper classification, double assessments, missing properties, and clerical errors.
- Verify that the notices of changed assessment are mailed within the time frame established by law and attach a statement to the roll declaring that these notices have been mailed.
- Be present at least two hours at the open examination of the roll that the clerk has posted or published notice of.
- Incorporate open book changes into the assessment roll.
- Deliver the completed paper assessment roll to the clerk at least one week before the Board of Review meets.
- Complete and sign the assessor's affidavit located in the front of the assessment roll.

What are the duties of the Assessor at the Board of Review?

The assessor must defend all assessments at the Board of Review. *Not* defending assessments at the Board of Review would violate the sworn affidavit the assessor signed and thus would violate the law. At the Board of Review, the assessor should:

- Attend all hearings and allow the property owner, the property owner's attorney, or the Board members to examine the assessor's testimony under oath.
- Take to the Board all books and records necessary to explain the assessor's work. Full disclosure is a requirement.
- Support the assessor's affidavit; **do not** contradict or impeach it. To impeach the assessor's affidavit means to contradict it.
- Serve as the municipality's expert witness. Declare facts relative to the values placed on the assessment roll including the current assessment level.
- Choose representation by counsel, if desired. The municipal attorney represents the municipality and the Board members and cannot also represent the assessor.
- Ask questions of the property owner and Board members. The Board will ensure that people treat each other respectfully and that all parties focus on the issues before it.
- Testify to all factors necessary to support the assessed value on appeal beyond the Board of Review.

NOTE: Understand that the record set at the Board of Review is the record examined throughout the rest of the appeal process. Therefore, it is important to establish a complete evidence base at this level.

What are the responsibilities of the objecting owner before and at the Board of Review?

Objecting property owners have to meet certain requirements and responsibilities before appearing at the Board of Review and while at the Board of Review as follows:

- *Allow the assessor to view the property.* Persons **cannot** appear before the Board to contest assessments if they have refused reasonable written requests, sent by certified mail, to view their property.
- *File an annual statement of personal property by March 1st if a personal property assessment is being contested.* (Property owners may, however, submit the completed statement to the Board along with a statement of the reasons why they failed to submit the return.)
- *Provide written or oral notice of intent to file an objection to the clerk of the board of review at least 48 hours before the first scheduled board of review meeting.* If the owner is requesting that a member be removed, that must also be stated at this time along with an estimate of the length of the hearing.
- *Complete the entire written objection form and file it with the clerk of the Board of Review.* This must be done prior to or during the first two hours of the first meeting. This **includes** giving an estimate of value.
- *Object to only the **total valuation** of the land **and** the improvements of a particular parcel.*
- *Do not contact a board of review member or give them information about the objection except at a board of review hearing.*
- *Present factual evidence first—evidence that supports the opinion of value stated on the objection form.* Objectors may then ask the assessor questions.
- *Hire legal counsel or other suitable representation if unable to attend the Board of Review hearing personally.*

Does the Assessor have to notify real property owners of changes in their assessments?

Yes. At least 15 days before the Board of Review hearing, the assessor must notify real property owners when the total assessment has changed from the prior year. The assessor must also attach a statement to the assessment roll declaring that the notices have been mailed, as required by law.

Does the municipal clerk have to notify property owners of the time and place of the Board of Review Hearing?

Yes. The clerk should publish a notice identifying the time and place of the first meeting and other requirements (see next question), and also place a notice in at least 3 public places and on the door of Village Hall, Council Chambers or City Hall. If adjournment is for more than 1 day, the clerk shall post a notice of the adjournment on the outer door of the meeting place, stating to what time the meeting is adjourned.

You stated that the published notification contains time, place and other information. What other information?

According to sections 70.47(7)(aa), (ac), (ad), (ae) and (af), Wisconsin Statutes, the following information must also be included in the notice:

- No person shall be allowed to appear before the board of review, to testify to the board by telephone or to contest the amount of any assessment of real or personal property if the person has refused a reasonable written request by certified mail of the assessor to view such property.
- After the first meeting of the board of review and before the board's final adjournment, no person who is scheduled to appear before the board of review may contact, or provide information to, a member of the board about that person's objection except at a session of the board.
- No person may appear before the board of review, testify to the board by telephone or contest the amount of any assessment unless, at least 48 hours before the first meeting of the board or at least 48 hours before the objection is heard if the objection is allowed under sub. (3) (a), that person provides to the clerk of the board of review notice as to whether the person will ask for removal under sub. (6m) and if so which member will be removed and the person's reasonable estimate of the length of time that the hearing will take.
- When appearing before the board, the person shall specify, in writing, the person's estimate of the value of the land and of the improvements that are the subject of the person's objection and specify the information that the person used to arrive at that estimate.
- No person may appear before the board of review, testify to the board by telephone or object to a valuation; if that valuation was made by the assessor or the objector using the income method; unless the person supplies to the assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests. The municipality or county shall provide by ordinance for the confidentiality of information about income and expenses that is provided to the assessor under

this paragraph and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The information that is provided under this paragraph, unless a court determines that it is inaccurate, is not subject to the right of inspection and copying under s. 19.35(1).

Does the Board of Review have to notify property owners of the time and place of their hearing?

Yes. After receiving an objection, the Board must establish a time for hearing the objection. The clerk of the Board of Review must give the objector and the assessor at least 48 hours notice prior to the hearing. When all parties are present and waive this notice in the minutes, the hearing may be held immediately. If a scheduled hearing can not be heard at that session, then a minimum 48-hour notice of the new scheduled time is required to be given.

Does the municipal clerk have to notify property owners of the time and place of a remanded Board of Review Hearing?

Yes. When any Board of Review case is remanded, the municipal clerk should post a notice in the same manner as a regular Board of Review meeting. **Note:** A remanded case is a case sent back to a lower judicial or a quasi-judicial body with instructions about further proceedings.

What is the role of the municipal attorney at the Board of Review?

The municipal attorney should act as counsel for the Board of Review. The municipal attorney's primary duties are the following:

- protect the interests of the municipality
- ask questions of those appearing before the Board
- advise the Board on legal matters
- establish a complete legal record of Board activities

Who are the typical parties at Board of Review hearings and who has the authority to ask questions?

In quasi-judicial proceedings such as the Board of Review, an adversary party's witnesses have the right to cross-examination. The typical parties in a Board of Review proceeding are the following:

- the objecting property owner
- the municipality

The assessor is not a member of the municipal Board of Review. The assessor is, rather, an expert witness for the municipality. Because the Board of Review is defined as a quasi-judicial (court-like) body by the statutes, more latitude is allowed than in a true court hearing. Property owners and assessors can ask each other questions. However, the Board of Review chairperson must manage the hearing so that all parties stay focused on the issues relating to the objection.

In a case where attorneys represent both the objecting property owner and the municipality, the attorneys should question the adversary party's witnesses. Members of the Board may, of course, also ask questions.

Where should the Board of Review meet?

Towns and Villages

The Board should meet in the Town/Village Hall, or a place designated by the Town/Village Board. If no such hall exists, the Board should meet at the clerk's office, or at the place where the last annual town meeting was held.

Cities other than 1st class

The Board should meet at the Council Chamber or a place designated by the Council.

Cities of the 1st Class

The Board should meet in some place designated by the Commissioner of Assessments.

What is meant by a "presumption of correctness?"

After the assessor's affidavit is completed and signed, the Board **must** accept the valuations in the assessment roll as correct valuations. According to Wisconsin law, the board of review shall presume that the assessor's valuation is correct. This presumption of correctness is binding on the Board of Review unless sufficient evidence to the contrary exists. To overturn this presumption of correctness, **the property owner has the burden of proof to show evidence proving the assessor incorrect.**

How must property owners file an objection in order to appear before the Board of Review?

Property owners who want to protest their assessments are required to do the following:

- Provide to the board's clerk written or oral notice of intent to file an objection at least 48 hours before the first scheduled meeting (or, for late boards, the first scheduled meeting after the roll is complete). Upon showing good cause to the board and submitting a written objection, the board shall waive that requirement during the first two hours of the first such meeting.
- Provide the same 48-hour notice to the board's clerk stating as to whether statutory removal of a member is requested, who the member is, and a reasonable estimate of the length of the hearing.
- File their objection in writing with the Board of Review clerk prior to or during the first two hours of the board's first scheduled meeting.
- Use objection forms prescribed by the Department of Revenue and provided by the Board of Review.
- Make full disclosure to the board of all their property liable to assessment in the district and its value.

Although the Board of Review can waive the objection forms, the Department strongly encourages their use to ensure that the Board receives all of the appropriate information.

Must the Board of Review be notified that an objection may be filed?

Yes. Objectors must notify the Board of Review clerk either orally or in writing of their intent to file an objection. An exception to this requirement is that, upon a showing of good cause to the board and submission of a written objection, the board shall waive that requirement during the first two hours of the first scheduled meeting. For extraordinary causes, the board may waive the intent to file requirement up to the end of the fifth day (if the sessions last five days).

How does a Board of Review proceed when denying an objector a hearing?

The Board of Review has the authority to deny an objector a hearing for any of the following reasons.

- Objector failed to satisfactorily complete the objection form.
- Objector refused a reasonable written request by certified mail of the assessor to view such property.
- Objector failed to file a Statement of Personal Property and does not make such return available to the Board with a statement of reasons for not filing.

- Objector failed to satisfactorily provide a notice of intent to object and has not shown good cause or extraordinary circumstances.

The Board should review the circumstances and state on the record the reason for denying the objector a hearing. No testimony or evidence involving the assessment is to be heard. No Notice of Board of Review Determination is completed.

Are there time limits for appealing to the Board of Review?

Yes. Objectors must file their written objection with the Board of Review clerk either prior to or during the first two hours of the board's first scheduled meeting (or, for late boards, the first scheduled meeting after the roll is complete). If the objection has been filed at least 48 hours prior to said meeting and the objector and the assessor have received at least 48 hours notice of the time of hearing, then the hearing may be held at the first scheduled meeting. Holding the hearing also may happen immediately if all parties are present (telephone contact with the Board is acceptable in the case of qualifying ill and disabled individuals) *and* if all parties waive such notice in the minutes. In all other cases, after receiving an objection, the Board establishes a time for the hearing, providing at least 48 hours notice to the parties.

Can property owners appeal part of their assessment?

No. Property owners can only appeal the total value of a parcel. They may not object to only the land or only the improvement values. In support of their appeal, property owners should completely fill out the objection form and declare their opinion of the fair market value of the property.

Can property owners appeal the classification of their property?

Yes. Property owners may appeal the classification of their property when it affects the assessed value. Classification affects the assessed value of land classified as agricultural, undeveloped, and agricultural forest.

The assessed value of agricultural land is based on its use in agriculture, rather than its fair market value. This valuation standard is referred to as use value assessment. Effective January 1, 2004 land classified as undeveloped or "agricultural forest" will be assessed at 50% of its full value.

After determining the full value of qualifying undeveloped land and "agricultural forest" land in accordance with sec. 70.32(1), state case law, and professionally accepted appraisal practices, the value is reduced by 50% under sec. 70.32(4).

To have the classification changed the owner must demonstrate how the predominant use of the land meets the appropriate definition under sec. 70.32(2)(c). Chapter Tax 18 provides additional criteria for agricultural classification.

It should be noted that the residential class includes most property where the predominant use is for living purposes. The residential class also includes vacant land where the most likely use would be residential development, if the land in question does not meet the definition of agricultural use.

If a property owner is appealing the classification of land that was in agricultural use during the prior year, but not classified as agricultural land for assessment purposes, the property owner should be prepared to present evidence to the assessor or Board of Review verifying its use in agriculture. Evidence of agricultural use may include leases or financial records demonstrating an attempt to produce crops or livestock. At the "open book" and Board of Review, the assessor should assist the property owner and/or Board of Review members with the calculations required to determine the use value of any parcel whose classification in a non-agricultural class is challenged.

What is agricultural land?

Sec. 70.32(2)(c)1g defines agricultural land as "land, exclusive of buildings and improvements and the land necessary for their location and convenience, that is devoted primarily to agricultural use." Land devoted primarily to agricultural use shall typically bear physical evidence of agricultural use, such as furrows, crops, fencing or livestock, appropriate to the production season.

What is undeveloped land?

Undeveloped land is defined by statute to include bog, marsh, lowland brush, uncultivated land zoned as shoreland under s. 59.692 (Wis. Stats.) and shown as a wetland on a final map under s. 23.32 (Wis. Stats.) or other non-productive lands not elsewhere classified.

This class includes areas commonly called marshes, swamps, thickets, bogs, or wet meadows; areas with soils of the type identified on soil maps as mineral soils that are "somewhat poorly drained," "poorly drained," or "very poorly drained," or "water," and areas where aquatic or semi-aquatic vegetation is dominant. This class

also includes fallow tillable land (assuming agricultural use is the land's highest and best use), road right of way, ponds, depleted gravel pits, and land that, because of soil or site conditions, is not producing or capable of producing commercial forest products.

What is agricultural forest land?

Land must meet the following criteria under sec. 70.32(2)(c)1d., Wisconsin Statutes, for classification as "agricultural forest:"

- "Agricultural forest" land must be producing or capable of producing commercial forest products.
- "Agricultural forest" land must be contiguous to a parcel that is classified in its entirety as agricultural.
- The same person must own the "agricultural forest" land and the contiguous parcel classified entirely as agricultural.
- "Agricultural forest" land and the agricultural parcel can only be separated by a road.

The *Agricultural Guide* contains "agricultural forest" examples (<http://www.dor.state.wi.us/html/govpub.html>).

Can Board of Review members appeal their own assessments?

Yes. Members of the Board of Review can appeal the assessment on their property. However, the individual **must** temporarily step down from his or her duties as a member of the Board.

What type of evidence is available to the Board?

The Board can **only** consider the sworn oral testimony of witnesses appearing before it. Courts have held that if appropriate credible evidence is presented to the Board showing the assessor's valuation to be incorrect, such evidence "cannot be disregarded by the Board." In other words, the Board **must** consider it.

Boards of Review can request additional evidence. At the request of the assessor, the Board can compel witnesses to appear for questioning. The law allows ill or disabled objectors to testify by telephone if a letter from a physician, surgeon, or osteopath confirms their illness or disability. The municipality must pay for the call.

In addition to oral testimony, the Board can also subpoena books, records, appraisals, documents, and any other data that may help to understand the issue. If the objector's or the assessor's valuation was made using the income approach, the objection should not be heard unless the objector supplies to the assessor all of the necessary income and expense information that the assessor requests.

The assessor **must** give the Board any information relating to the appealed assessment. In addition, the assessor should prepare to present the facts and valuation methods used in developing the assessments. The information presented should help the Board to determine if the assessment is correct. The objection form can contain written testimony or contain exhibits to become a part of the Board of Review proceedings.

Need all testimony be given under oath?

Yes. As previously stated, the Board can **only** consider sworn oral testimony of witnesses appearing before it. Only evidence given under oath is binding. Where no evidence under oath is offered before the Board, the Board has no authority to change the valuation.

In addition to sworn oral testimony, an objector must also specify in writing, the person's estimate of the value of the land and of the improvements that are the subject of the objection and specify the information that the person used to arrive at that estimate.

What is meant by a Quorum?

A majority of Board members constitutes a quorum. A quorum is required to make a determination. Although a minimum of two members may hold a hearing [three members, if under 70.47(6m)(c)], they cannot make a determination until a quorum of the Board has reviewed the evidence. In the event of a tie vote, the assessor's valuation is considered correct.

To count a Board member when determining a quorum and to allow a member to vote, a member has to do the following:

- Attend the hearing of evidence; or
- Receive a transcript of the hearing no less than 5 days prior to the meeting and read the transcript; or
- Receive a mechanical recording of the evidence no less than 5 days prior to the meeting and listen to the recording; or
- Receive a copy of a summary and all exceptions no less than 5 days prior to the meeting and read the summary and exceptions. **Note:** A "summary" means a written summary of the evidence prepared by one or more Board members attending the hearing of evidence. This summary shall be distributed to all Board members and all parties to the contested assessment. "Exceptions" mean written exceptions to the summary of evidence filed by parties to the contested assessment.

How should the Board reach a decision?

After the Board has heard all the evidence, it must deliberate to reach a decision. The deliberation process is open to the public and is done in one of the following ways:

1. deliberate after each objection is heard, or
2. deliberate after all objections are heard, or
3. deliberate periodically during the time that the Board is open.

From the evidence before it the Board should determine if the assessor's valuation is correct. The board's decision should incorporate the understanding that the assessor is presumed correct and the objector has the burden of proof to sufficiently show the assessment is incorrect. It is recommended that the deliberation discussion and final determination be tape recorded. The board's determination shall be by roll call vote. Decisions to adjust assessments need to clearly identify the final assessment allocated to the land and to the improvements.

Are Board of Review members subject to penalties for misconduct?

The Board of Review is not an assessing body, nor is it charged with redoing the work of the assessor. The Board can only hear the evidence before it and then act on the basis of that evidence. Board of Review members who intentionally violate any of the established Board of Review procedures with the intent to fix any assessed value at less than its true value or omit any property from assessment are guilty of fraud and subject to the penalties established by Wisconsin law.

What notification is needed at the end of a Board of Review hearing?

The Board of Review may announce its decision to the property owner and assessor at the conclusion of the hearing, or it may take the case under advisement. Prior to final adjournment however, the clerk of the Board of Review shall provide the objector, or the appropriate party, notice of the finalized assessment. This written notice must also explain the property owner's appeal rights and procedures. The clerk of the Board of Review shall also prepare an affidavit that includes the date when the notice was delivered or mailed.

After the Board of Review has made its decisions, the clerk should summarize the proceedings and decisions on forms prescribed by the Department of Revenue (form

PA-800). The summary should include the following items:

- name of property owner
- description of the property
- amount of the assessment objected to
- names of the persons who appeared for the property owner
- Board of Review determination

This form should be retained for at least seven years with the clerk's notes, written objections, and all other material submitted to the Board of Review.

Can a Board of Review adjust an assessment not complained of by the owner?

The Board is to carefully examine the roll and correct all apparent errors in description or computation. Assessments are not to be raised or lowered except based upon evidence presented at a hearing. If the Board has reason to believe taxable property not complained of by the owner has been omitted or property is assessed above or below the general level of assessment the Board shall:

- Notify the owner, agent, or possessor of such property of its intention to review such assessment.
- Fix the time and place of the meeting and notify the owner.
- Subpoena witnesses as is deems necessary to testify concerning the value of such property.
- Conduct the hearing, deliberate, and make a determination.
- Provide the owner with a Notice of Board of Review Determination.

Wisconsin law makes no provision for taxpayers to appeal another individual's property assessment. However, if the board of review has reason to question the accuracy of a property assessment, which is not appealed, the board has the authority to schedule a hearing to review the assessment.

How can a property owner appeal a Board of Review decision?

The Board of Review is the first step in the property assessment appeal process. The next step is to contest the Board of Review decision to a higher review authority. However, if property owners have **not** contested their assessment before the local Board of Review, no other reviewing authority will hear their case. There are two options for appealing a Board of Review decision. Property owners can do the following:

1. appeal to the Department of Revenue, or
2. appeal to circuit court.

How can a property owner appeal a Board of Review decision to the Wisconsin Department of Revenue?

Property owners can file a written complaint with the Department of Revenue Supervisor of Equalization. This appeal has several conditions the property owner must do:

- File a written complaint within 20 days after the property owner receives the Board of Review determination or within 30 days of the date specified on the affidavit if no return receipt exists.
- Pay a filing fee of \$100 to the Department of Revenue.
- Ensure the value of the property does not exceed \$1,000,000.
- Prove the property being appealed is radically out of proportion to the general level of the assessments of all other property in the taxation district.

This process applies to either real or personal property. It is not available for properties located in first class cities (Milwaukee). The appeal procedure is described in Section 70.85 of the Statutes.

How can a property owner appeal a Board of Review decision to Circuit Court?

One way to appeal the decision of the Board of Review is by an “action of certiorari” to the circuit court in the county where the property is located. An “action of certiorari” means to request the court to review the **written record** of the hearing.

Property owners must do the following:

- file an appeal with the circuit court within 90 days after receiving notice of the determination.
- Provide *no* new evidence.

The court decides the case solely on the basis of the written record made at the Board of Review.

If the circuit court finds any error in the proceedings of the Board of Review it will return the appeal to the Board. The Board must follow the instructions from the court to reconsider the case. The court may order the municipality to recall the Board of Review if it has adjourned prior to the court’s decision on the appeal.

Can a circuit court decision be appealed to a higher court?

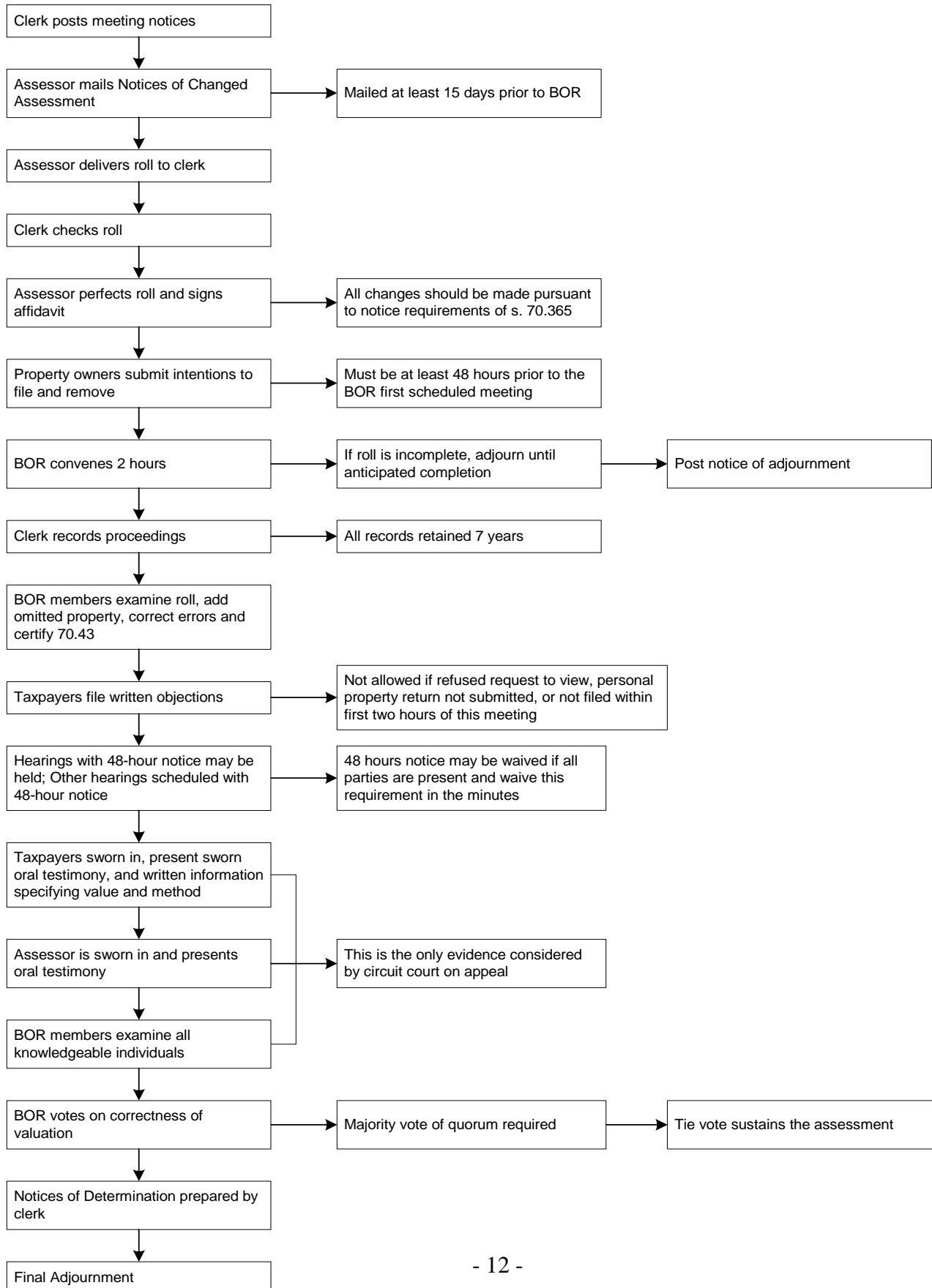
Yes. If the decision of the circuit court under the action of certiorari is not acceptable to the property owner, the property owner can appeal to the Court of Appeals. This

court will review the facts of law considered by the lower court to determine if they interpreted the law correctly.

Can an appellate court decision be appealed to a higher court?

Yes. Appealing the decision of the Court of Appeals to the Wisconsin Supreme Court is possible. However, this court can also refuse to hear an appeal and thus let stand the ruling of a lower court. The Supreme Court has the final word in the appeal process. At this level the court will review all the lower court records and may request written legal briefs from each party supporting their point of view. Once the Supreme Court makes a ruling it becomes the official interpretation of the laws of the state.

Board of Review Flowchart



Board of Review Court Case Decisions

The following cases all deal with Board of Review issues. For the sake of brevity, we include only the most important cases. Other are found in Volume I of the *Wisconsin Property Assessment Manual* and in court records. These cases are arranged in the following categories:

- General
- Procedures
- Organization
- Notices
- Objections
- Sworn Oral Testimony
- Assessor Presumed Correct
- Witnesses
- Evidence
- Appeals

GENERAL

Brown v. Oneida County, 103 Wis. 149, 79 NW 216 (1899)

The court held that, “the Board is a creature of the statute, and has only such powers given to it by the statute.”

State ex rel. International Business Machines Corporation v. Board of Review, City of Fond du Lac, 231 Wis. 303, 285 NW 784 (1939) A Board of Review is not an assessing body, but rather a quasi-judicial body whose duty it is to hear evidence tending to show errors in the assessment roll and to decide upon the evidence adduced whether the assessor’s valuation is correct.

State v. Gaylord, 73 Wis. 306, 41 NW 518 (1889) The power of the Board to review and alter extends not merely to the correction of errors in the roll, but also to lowering or raising the valuation of any property, including securities on the assessment roll; and the sworn statement as to the amount of such securities, made by the property owner to the assessor, is not conclusive on the Board.

State ex rel. Kimberly-Clark Co. v. Williams, 160 Wis. 648, 152 NW 450 (1915) The court said, “The Board of Review is not an assessing body and it is not to do over the work of the assessor or substitute its judgment for his.” Court set aside an assessment made by the Board of Review after the Board had made a personal inspection of the property.

PROCEDURES

Once the assessor has placed a value on all taxable property listed on the assessment roll and signed the affidavit attached to the roll, the assessments are presumed correct. At this time, the assessor is not allowed to impeach the information found in the assessment roll nor is the Board of Review permitted to

change an assessment without sworn oral testimony. The Board of Review meets once the assessment roll has been completed and delivered to the municipal clerk.

Revenue Department Legal Opinion (July 24, 1968) The Board of Review may not hold its first meeting until the completed and certified assessment roll has been received by it for the reason that the Board cannot properly transact any of its business before the roll is prepared, certified, and received by it. The session of 5 days provided for in s. 70.47(7)(a), Stats., during which time the Board may receive proper objections to the assessment roll and otherwise transact its business must start with the first meeting day in which the certified assessment roll has been received by the Board.

State ex rel. Nekoosa Papers, Inc. v. Saratoga Board of Review, Court of Appeals, Dist. IV, Case No. 82-572 (1983)

The court held that while s. 70.47(8)(e) Stats., requires that all hearings before the Board be recorded, s. 70.47(9) Stats., which governs the Board’s determination is silent regarding the record the Board must make when it deliberates. Thus, no record need be made of the Board’s deliberation.

State of Wisconsin ex rel. Richard A. Bender et al. vs. the Town Board of Kronenwetter, et al. Marathon County #79CV1555

In this case the court found that “complete and accurate records of the (Board of Review) meetings were not kept. . . .” Sec. 70.47(8)(e) states in part that “All proceedings shall be taken in full by a stenographer or by a recording device.” Yet there is no transcript or recording of a number of evidentiary and decision hearings. . . . The erratic records have made it difficult and sometimes impossible to tell whether there was a quorum at each evidentiary and decision hearing as required by s. 70.47(1) and whether any Board member voted on an assessment after failing to attend the evidentiary hearing on that valuation in violation of s. 70.47(9)(b).

“Another problem is that all the Board members who voted on a decision may not have attended the evidentiary hearing on that assessment or have read a transcript or listened to a recording of the evidentiary hearing at least five days before voting as s. 70.47(9)(b) requires.”

“Still another problem is that a majority of the Board members may not have agreed on each of the assessment decisions . . . the record suggests that not all voting members were at the evidentiary hearings and therefore should not have been counted in the majority vote. . . .” Allowing a Board member to vote or participate in deciding an assessment when he did not attend the evidentiary hearing and deciding cases without the agreement of at least two Board members are fundamental errors.

“Because the court has found numerous errors in the proceedings of the Board that affect each petitioner, it finds those proceedings void and remands each of the assessments that petitioners had hearings on before the Board for a rehearing.”

ORGANIZATION

Revenue Department Legal Opinion (1978) It is invalid for a municipality to vary the membership of the Board of Review by ordinance in a manner not specifically permitted by s. 70.46, Stats. The clerk of a village cannot be excluded from membership on a Board of Review composed of public officials.

State of Wisconsin ex rel. Richard A. Bender et al. vs. the Town Board of Kronenwetter, et al. Marathon County #79CV1555 The court stated “It is clear from s. 70.46(1) that the assessor cannot act as a Board of Review member in deciding appeals. Common sense dictates that an assessor should not be judging the merits of his own assessments when a property owner appeals to the Board of Review. The assessor has a right to be present at a decision hearing, as any other citizen does at an open meeting, but the assessor cannot participate in any way or vote on the cases. The action by the Board in allowing the assessor to repeatedly give information, participate and even vote at decision hearings was a major error that materially prejudiced petitioners’ rights to a fair appeal. Sec. 70.46(1) and due process considerations forbid this participation by an assessor.”

NOTICE

Revenue Department Legal Opinion (September 2, 1994) Should Saturday, Sunday, and Holidays be excluded in the computation of time relating to the Notice of Higher Assessment?

Sec. 70.365, Wis. Stats., specifically states that the notices shall be sent “at least 10 days before the meeting of the board.” There is no authority in the rules of statutory construction to reinterpret this specific and clear language to expand the ten-day period by excluding legal holidays, weekend days or non-business days from the calculation of the ten days. It is plainly obvious that any ten-day period would include a weekend or possibly legal holidays; this would have been obvious to the legislature and no specific reference was made in the statute to exclude any such days from the calculation of the ten-day period. Any general language in another statute should not be used to defeat the obvious intent in sec. 70.365, Wis. Stats.; the rules of statutory construction require that language of a specific section control over the more general language in another statutory provision. As an example, if the board is scheduled to meet on the eleventh of the month, the notices will satisfy the statutory

requirements if they are mailed no later than the first day of the month even though legal holidays and weekend or non-business days intervene. In this example cited, the ten-day period does not have to be moved back into the previous month to accommodate the occurrence of any legal holidays, weekend or non-business days.

State ex rel. John R. Davis Lumber Co. v. Sackett, 117 Wis. 580, 94 NW 314 (1903) The court held, “The Board of Review must give the property owner notice of intention to increase his assessment before it can legally increase it.” Section 70.47(10), Stats. states that the Board of Review can add omitted property but must notify the property owner. The Board cannot raise an assessment except upon reasonable evidence submitted to it; to do so constitutes jurisdictional error.

Milwaukee County v. Dorsen, 208 Wis. 637, 242 NW 515 (1932) A property owner is not entitled to specific notice of the time and place of the meeting of the Board of Review. The statute fixing the time and place of meeting, together with the giving of such general notice as statute may require, is sufficient to constitute due process.

State ex rel. Baker Mfg. Co. v. City of Evansville, 261 Wis. 599, 53 NW 2d 795 (1952) Where the original meeting of the City Board of Review to consider the property owner’s objection to the assessment of its personal property was adjourned to no particular time, a later meeting to consider the assessment not referring to the adjourned meeting and held almost two months after the first meeting, was a new meeting and not an adjourned meeting, and the statutory 48-hour notice was required to be given to the property owner.

OBJECTIONS

Bitters v. Newbold, 51 Wis. 2d 493, 187 NW 2d 339 (1971) A property owner, wishing to appeal an assessment appeared at the Board of Review with an improvised objection form. At the meeting, the property owner refused to fill out the proper objection form or be sworn in and left the meeting without testifying. When the tax bills were later issued based on the original assessment, only the portion of the bill based on the property owner’s estimate of value was paid. The property owner then filed a claim under s. 74.73, Stats. for recovery of illegal taxes.

The court held that the Board of Review may deny a property owner a hearing if the objection is not stated on an approved form; the Board does not have to accept the information supplied by the property owner in a different style. A certiorari review is limited to the action of the Board. In this case the property owner did not meet the requirements of appearing at the Board of Review.

42 Opinion of Attorney General 126 (1953) In proceedings to this section (70.47), objections to valuations must be in writing unless expressly waived by action of the Board, the clerk must take notes of testimony given unless it is reported by a stenographer or recording device, and no assessment may be raised or lowered except after a hearing as provided for in subpars. (8) and (10), Stats., herein.

State ex rel. Reiss v. Board of Review of Town of Erin, 29 Wis. 2d 246, 138 NW 2d 278 (1965) In this case the property owner had filled out answers to all the questions on the form, including date of purchase and purchase price, improvement (nature and value), amount of fire insurance carried on the buildings, and that there had been no recent commercial appraisal of the buildings. However, in answer to the question "What is the present fair market value of this property?" The objecting property owner wrote, "I do not know." The court says, "Even if it were considered that the Board had accepted the answers to other questions, the answer remained insufficient. Surely the single most important fact relevant to an assessment is the fair market value of the property, and a property owner who desires to proceed with an objection in good faith must be prepared to take a position as to what the fair market value is."

The majority of the court held that the property owner had not properly filled out the objection form and therefore had no right to a hearing at the Board of Review.

SWORN ORAL TESTIMONY

State of Wisconsin ex rel. Richard A. Bender et al. vs. the Town Board of Kronenwetter et al. Marathon County #79CV1555 The court found that "another error that the Board made was failing to swear the assessor in when he spoke at the evidentiary hearings. Sec. 70.47(8) requires that all persons be sworn before giving evidence on the valuation of property to the Board of Review. These transcripts show that each objecting property owner, property owner's attorney and witnesses (if any) were all duly sworn, but never once was the assessor sworn before he gave testimony. The assessor spoke at many hearings without being under oath. The Board should have had the assessor take an oath before speaking about any assessments or offering information. . . . The fact that the assessor testified at several evidentiary hearings without being under oath like all the other witnesses requires a finding that these hearings were void."

State ex rel. Heller v. Fullndner, 109 Wis. 56, NW 118 (1901) Where no evidence under oath is given or offered before the Board of Review upon an application to reduce an assessment, the Board has no power to reduce the valuation.

State ex rel. Vilas v. Wharton, 117 Wis. 558, 94 NW 359 (1903) Letters and affidavits of the purchasers of property are not admissible as evidence before a Board of Review upon the question of whether the title passed to them prior to the assessment date.

Ryerson's Estate, 239 Wis. 120, 300 NW 782 (1941) The property owner not being required to furnish the assessor with a sworn statement describing and valuing property, the assessment roll is not admissible for any other purpose than prescribed by statute, but statements made to assessor or the Board of Review with respect to description and value of property, whether written or oral, may be received in evidence against property owner as an "admission against interest"; it being within the power of the assessor and Board to require a property owner to submit to an examination.

Town of Wauwatosa v. Gunyon, 25 Wis. 271 (1870) The court stated that a note should be made in the records - "refused to swear," when parties refuse to swear or present evidence under oath. The Board may then proceed to hear the appeal.

ASSESSOR PRESUMED CORRECT

Krom v. Antigo, 220 Wis. 542 (1936) The court said, "There can be no recovery of tax paid unless it can be shown that it is inequitable. A difference of opinion amounting to 12 1/2% of the value fixed by the assessor does not within the rule of cases cited warrant the court in saying that plaintiff is called upon to pay more than his just share of the tax."

Bass v. Fond du Lac County, 60 Wis. 516 (1884) The court ruled, "The Board of Review and the clerk should see to it that the assessor's affidavit is signed and attached to the roll, for its absence is prima facie evidence of the inequality or injustice of the assessment and shifts the burden of proving it equitable and just to the municipality."

State ex rel. Giroux v. Lien, 108 Wis. 316, 84 NW 422 (1900) In proceedings before the Board of Review, the assessor's valuation is prima facie correct.

State ex rel. Kimberly-Clark Co. v. Williams, 160 Wis. 648, 152 NW 450 (1915) The assessor's valuation of property is prima facie correct and is binding on the Board of Review in the absence of evidence showing it to be incorrect.

State ex rel. Enterprise Realty Co. v. Swiderski, 269 Wis. 642, 70 NW 2d 34 (1955) The assessor's valuation is presumptively correct and the owner's evidence that such valuation exceeded construction costs was not sufficient to upset the assessor's valuation. Construction costs do not prove the sale price.

WITNESSES

State ex rel. Baker Mfg. Co. v. City of Evansville, 261 Wis. 599, 53 NW 2d 795 (1952) While subs. (8) par. (d), Stats., provides the Board of Review may compel attendance of witnesses and, if requested by tax assessor, must compel attendance of such witnesses, it was not bound to compel such witnesses at the request of a property owner, and, where the Board of Review issued subpoenas for persons requested by property owner and delivered such subpoenas to property owner for such use as it might wish to make of them, the Board went as far as it was required. **NOTE:** Section 70.47(8), Stats., has been revised to allow the Board of Review to hear under oath, by telephone, all ill or disabled persons who present to the Board a letter from a physician, surgeon, or osteopath that confirms their illness or disability.

State ex rel. Gregersen v. Board of Review, Town of Lincoln, 5 Wis. 2d 28, 92 NW 2d 236 (1958) The court admits that extraordinary cases might arise wherein "it may be very important to the property owner to examine the assessor as an adverse witness at the very outset. . . ." of the proceedings. The court proceeds to quote favorably the language in the case of *Baker Mfg. Co. v. Evansville, 261 Wis. 599, 53 NW 2d 795 (1952)*.

"A few questions to the assessor may quickly establish facts which could otherwise be proved only by the time-consuming and expensive method of proving the values of a large sampling of properties to show that discrimination has been practiced against one class. Other examples might be suggested. Where the case is none of that sort, the property owner's right to determine the order in which he will present his case, and to call the assessor at the outset for cross-examination, is a matter of such substance that only extraordinary circumstances could warrant its denial. On the other hand, in an ordinary case where the sole contention is that the assessor has over-estimated the value of property owner's own property, circumstances may justify the Board in requiring the property owner to present his own testimony on value or that of his expert witnesses before examining the assessor."

The court then concludes that if the property owner, "thought he would be prejudiced by waiting until after his own testimony to examine the assessor, he owed it to the Board to assert such prejudice and explain how it might result. Having failed to do so, he cannot later be heard to say in court that the Board exceeded its jurisdiction in directing him to put in other testimony first." The court also remarked that in the certiorari proceedings the property owner should have, but did not, show how the Board's action was prejudicial to a material degree.

EVIDENCE

State ex rel. Althen v. Klein, 157 Wis. 308, 147 NW 373 (1914) The Board of Review cannot change the assessor's valuation without evidence; but if, in any reasonable view of it, the evidence furnished a substantial basis for the action of the Board in making a change, and there is nothing to show that it acted arbitrarily or dishonestly, its decision will not be interfered with by the courts.

State ex rel. Edward Hines Lumber Co. v. Fisher, 129 Wis. 57, 108 NW 206 (1906) "Board may consider evidence of an earlier hearing to support its findings and is not held to regular court rules on evidence."

State ex rel. Pierce v. Jodon, 182 Wis. 645, 197 NW 189 (1924) The court held, "All that can be asked of assessment officers is that they act on the evidence and facts before them, honestly and without discrimination against such property. When this is done and the case is before us on appeal, we will examine the record to ascertain if there is any competent, credible evidence to sustain the valuations placed upon the property by the assessing officers, and if there be such, it is not our province to weigh the testimony to determine where the preponderance lies."

Milwaukee Iron Co. v. Schubel, 29 Wis. 444 (1872) The Board of Review has no authority to value property arbitrarily or capriciously, but must be governed by the sworn evidence before it, where that is clear and uncontradicted; although, if the evidence is conflicting the decision of the Board may be final.

State ex rel. First & Lumbermen's National Bank of Chippewa Falls v. Board of Review, Chippewa Falls, 237 Wis. 306, 296 NW 614 (1941) The rule on real estate assessment is that value for tax purposes shall be arrived at by the assessor from an actual view or from the best information that can be practically obtained as to the full value which would ordinarily be obtained for property at a private sale, and when the assessor has complied with such rule and the Board of Review has been guided by competent evidence in passing upon fairness of assessment, a court cannot disturb the findings.

State ex rel. Home Insurance Co. v. Burt, 23 Wis. 2d 231, 127 NW 2d 270 (1964) Under this section requiring real property to be assessed at the full value which could ordinarily be obtained at private sale, the assessor's valuation must be taken as presumptively correct in proceedings attacking an assessment, but presumption gives way to undisputed competent evidence establishing a lower value or substantially higher value.

State ex rel. Collins v. Brown, 225 Wis. 593, 275 NW 455 (1937) “It has been consistently held that in the state the assessor’s valuation is prima facie correct and will not be set aside in the absence of evidence showing it to be incorrect.” The fact that the property was sold immediately after the assessment at a lower price than the assessment does not prove the assessment wrong unless it is shown that the price paid is that which could be obtained at a private sale. The burden of proof is upon the person attacking the assessment.

State ex rel. N.C. Foster Lumber Co. v. Williams, 123 Wis. 61, 100 NW 1048 (1904) In proceedings before a Board of Review to reduce the assessor’s assessment, the Board is not bound to accept as true the evidence upon one side or that of the other, but may, in the exercise of its judgment, disregard the evidence on both sides, and fix a valuation between the two extremes.

In proceedings before a Board of Review for the reduction of an assessment of sawmill property for taxation, the testimony of the owner bore mainly on what the property was worth to disorganize and dispose of its parts. The testimony in support of the assessment bore mainly on what the property was worth as an entirety and as a going concern; that is, what the property would bring at private sale, assuming that a buyer, with the same opportunity for the use of the mill as the owner, was at hand, and had the means to buy it. The court held that under s. 70.32, Stats., providing that real property shall be valued at the value which could ordinarily be obtained therefor at private sale, and prescribing what elements the assessor shall consider in determining the value, the evidence of the owner furnished no basis for valuing the property, while the evidence in support of the assessment was sufficient to warrant the Board in adopting the assessor’s valuation.

State ex rel. Flambeau Paper Co. v. Windus, 208 Wis. 583, 243 NW 583 (1932) The court said that, “It was proper to consider cost, depreciation, replacement value, income, industrial conditions, location and occupancy, sales of like property, book value in a prospectus and appraisals produced by owner.”

Superior Nursing Homes, Inc. v. City of Wausau, Board of Review, 37 Wis. 2d 570, 155 NW 2d 670 (1968) It is the obligation of the assessor and Board of Review to determine fair market value of property from best competent evidence available, which may or may not coincide with the construction costs less depreciation.

Bauermeister and Others v. Town of Alden, 16 Wis. 2d 111 (1962) Owners of 22 properties alleged that their lakeshore properties were assessed in 1959 at a much higher ratio (average 96.9%) than six farms they picked out as comparisons which were assessed at an average ratio of

53.8%. The court gave much weight to the fact that these farms were not random samples; and that testimony of tabulated sales of farms sold in 1957, 1958, and 1959 showed that “the particular farms sold were assessed at a higher percentage of the perspective sales price than the particular lakeshore properties sold in the same year. . . .

These facts tend to show that there was no discrimination in favor of farms, at least in the assessment of the particular properties sold.”

The court continued, “We take judicial notice of the fact that the Department (of Revenue) determined that in 1959, in the Town of Alden, the assessed value of all real estate was 99.2% of full value, and the assessed value of all real estate and personal property combined was 95.6% of full or true value... It is of some significance that the Department, following its own statistical methods, arrived at a result which does not support the plaintiff’s contentions.” Relief to plaintiffs was denied.

Dolphin v. Board of Review, Village of Butler 70 Wis. 2d 403 (1975) A property owner went to the Board of Review with three separate appraisals of the property in question. No other testimony was presented and the Board stated that they would notify the property owner by mail of their decision. After the hearing, the Board went into executive session with the assessor present, but not the property owner. At this session, the assessor proceeded to attack the property owner’s appraisals. Based on this information the assessment was reduced, but not to what the property owner’s appraisals had indicated.

The court held that the executive session was more than a mere deliberation session. It was closer to a continuation of the quasi-judicial hearing but without the potentially bothersome presence of the objecting property owner. This session was ruled improper and amounted to a jurisdictional error on the part of the Board of Review.

APPEALS

Once the Board of Review has adjourned, the appeal of an assessment must follow the procedures outlined in the Wisconsin Property Assessment Manual, Chapter 18-Board of Review & Assessment Appeals. Whenever the valuation of property is being questioned, the property owner must have first appeared before the Board of Review and presented sworn oral testimony.

Central Cheese Co. v. City of Marshfield, 13 Wis. 2d 524, 109 NW 2d 75 (1961) Where the Board of Review had adjourned sine die, it could give no further consideration to the assessment.

Milwaukee County v. Dorsen, 208 Wis. 637, 242 NW 515 (1932) A property owner who does not appear before the Board of Review and object to the validity of the tax sought to be imposed cannot thereafter question the tax imposed on either the property or the income.

Highlander Co. v. City of Dodgeville, 249 Wis. 502, 25 NW 2d 76 (1946) An assessment on property on any basis other than the full value obtainable at private sale, as required by statute, is illegal and if the assessment is so substantially out of line with other assessments as to impose an inequitable tax burden, the property owner may proceed under par. 74.73, Stats., relating to the recovery of taxes unlawfully assessed.

State ex rel. J.S. Stearns Lumber Co. v. Fisher, 124 Wis. 271, 102 NW 566 (1905) “In order for the appellate court to remove the findings of the Board, the evidence must be overwhelmingly against the Board’s findings.”

State ex rel. John R. Davis Lumber Co. v. Sackett, 117 Wis. 580, 94 NW 314 (1903) Where a Board of Review commits a jurisdictional error in increasing the valuation of property, injustice to the owner is presumed, in the absence of any showing to the contrary in the record of the proceedings of the Board, and upon a proceeding by certiorari to challenge the assessment, if there is no affirmative showing that substantial justice has been done, it is error to quash the writ upon the ground that the petitioner has not shown injustice.

Marina Fontana et al. v. Village of Fontana-on-Geneva Lake, 69 Wis. 2d 736, 233 NW 2d 349 (1975) Property owners brought action against the village under s. 74.73, Stats., (Recovery of Illegal Taxes) claiming an excessive increase in the valuation of the real estate owned by them. They also claimed that they were not given notice of the increased assessment even though it was in excess of \$100 as required by s. 70.365, Stats. The village countered these claims by pointing out that according to the case of Pelican Amusement Co. v. Pelican, 13 Wis. 2d 585, any objection to the assessment must begin at the Board of Review. The property owners had not appeared at the Board. The village also contended that the property owners failed to properly plead which alternative provision of s. 74.74, Stats., they relied on for the reassessment of the property taxes. The court found that the Pelican case was decided in 1961 and that s. 70.365, Stats., was enacted two years later. This later enactment of s. 70.365, Stats., modified the holding in the Pelican case. The failure to give the required notice of assessment waived the property owner’s obligation to appear

at the Board of Review. The court dismissed the village’s second contention that the property owners did not properly plead which alternative provision of s. 74.74, Stats., because the responsibility of determining which alternative to proceed under, lies with the trial court.

State ex rel. Geipel v. City of Milwaukee 68 Wis. 2d 726, 229 NW 2d 585 (1975) The scope of review by certiorari is strictly limited in Wisconsin . . . the reviewing court may consider only.

1. Whether the Board kept within its jurisdiction;
2. Whether it (the Board of Review) acted according to law;
3. Whether its action was arbitrary, oppressive or unreasonable and represented its will and not its judgment; and
4. Whether the evidence was such that it might reasonably make the order a determination in question.

GLOSSARY

Ad valorem tax	In reference to property, a tax based upon the value of the property.
Assessed Value:	The dollar amount assigned to taxable real and personal property by the assessor for the purpose of taxation. Assessed value is estimated as of January 1 and will apply to the taxes levied at the end of that year. Assessed value is called a primary assessment because a levy is applied directly against it to determine the tax due. Accurate assessed values ensure fairness between properties within the taxing jurisdiction. (See <i>Equalized value</i> for fairness between municipalities).
Assessing	The act of valuing a property for the purpose of establishing a tax base.
Assessment	See Assessed value.
Assessment district	An assessor's jurisdiction; it may or may not be an entire tax district. Any subdivision of territory whether whole or part of a municipality in which a separate assessment of taxable property is made. Such districts may be referred to as taxing districts, administrative districts, or special purpose districts. (See s. 70.08, Stats.)
Assessment Level:	The relationship between the assessed value and the equalized value of non-manufacturing property minus corrections for prior year over or under charges within a municipality—town, village or city. For example, if the assessed value of all the property subject to property tax in the municipality is \$2,700,000 and the equalized value (with no prior year corrections) in the municipality is \$3,000,000 then the “assessment level” is said to be 90% ($\$2,700,000 \div \$3,000,000 = .90$ or 90%).
Assessment ratio	The relationship between the assessed value and the statutory valuation standard (fair market value for most property, use value for agricultural land, and 50% of full value for agricultural forest and undeveloped lands). For example, if the assessment of a parcel which sold for \$150,000 (fair market value) was \$140,000, the assessment ratio is said to be 93% (140,000 divided by 150,000). The difference in the assessment level and the assessment ratio is that the level typically refers to the taxation district; the ratio refers to the individual parcel. $\text{Assessment Ratio} = \frac{\text{Assessed Value}}{\text{Market Value}} = \frac{\$140,000}{\$150,000} = 93\%$
Assessment roll	The official listing of all properties within a given municipality (Town, Village, City) by ownership, description, and location showing the corresponding assessed values for each. The completed assessment roll is an official listing which contains owners and legal descriptions of all real estate parcels and items of personal property within a taxation district, acreage of most parcels, the statutory classification and assessed value, according to land and improvements, of general taxable parcels.
Assessment year	The period of time during which the assessment of all properties within a given assessment district must be completed; the period between tax lien dates. Each assessment year stands alone.
Assessor	An assessor is the official responsible for appraising all property within an assessment district and signing an affidavit to its correctness. The assessor values all taxable property in a municipality to determine the share of the levy that each parcel will bear. The assessor also determines which property is exempt from the property tax. To engage in property assessment work, the assessor <i>must</i> obtain certification from the Wisconsin Department of Revenue. The Department keeps certification records on file and is authorized to inform an inquirer if an individual holds a valid credential. In Wisconsin, manufacturing property is assessed by the Wisconsin Department of Revenue.
Assessor's Final Report	A report completed and filed by the assessor with the Supervisor of Equalization, upon the completion of the assessment roll and prior to Board of Review, the report shows amounts and reasons for changes between the prior year's assessed values and the current year's assessed values of a taxation district.
Board of Review	A quasi-judicial board charged with the responsibility of raising or lowering assessments proven incorrect as well as correcting any errors in the assessment roll. The Board of Review consists of a clerk and selected municipal officers (other than the assessor) or citizens. It hears all objections to the amount or valuation of property if objections are made in writing and filed with its clerk prior to adjournment of public hearings. The Board examines the assessment roll or rolls and corrects all apparent errors in description or computation, adds all omitted property to the assessment roll and determines whether an assessor's valuation is correct from evidence brought before it. It cannot determine exempt or taxable status of property.

Doomage assessment	The process of arriving at an assessment from the best information available when the assessor is denied the opportunity to physically inspect a property; making an assessment without actually viewing the property or receiving and/or accepting the property owner's declaration of personal property.
Equalized Value:	The estimated value of all taxable real and personal property in each taxation district, by class, as of January 1 and certified by the Department of Revenue on August 15 of each year. The value represents market value (most probable selling price), except for agricultural property, which is based on its use (ability to generate agricultural income) and agricultural forest and undeveloped lands, which are based on 50% of their full (fair market) value.
Equated value	The dollar amount placed on individual parcels of manufacturing property in a taxation district for tax collection purposes, calculated by multiplying the market value of the property as determined by the Department of Revenue times the assessment level of all other property within the taxation district.
Equity	In reference to property taxes, a condition in which the tax load is distributed fairly or equitably . In reference to value, it is that value of the property remaining after deducting all liens and charges against it.
Expert help	Is employed when the governing body of a municipality determines that it is in the public interest to appoint such help to aid in making the assessments in order that they may be equitably made and in compliance with the law. The expert help may be a private firm or person, or employee of the Department of Revenue.
Fractional assessment	When the assessment is made at some percentage of full market value, such as 33% or 50%.
Full value	(1) The value reflected as fair market value when used in reference to the valuation of real property under s 70.32(1) WI Stats (this does not include agricultural property defined in s 70.32 (2)1. WI Stats). (2) The same as equalized value, however, is often used when referring to the value of school and special districts.
General property tax	The following elements must be present: (1) a dollar amount of levy; (2) total assessed values of individual properties (parcels of real property/personal property items); and (3) uniform rate of taxation within the same common area which is to be applied to all taxable real and personal property within that area.
Levy	The total amount of property taxes imposed by a taxing unit.
Lien	A charge against property whereby the property is made the security for the payment of a debt.
Mass appraisal	The process of valuing a group of properties as of a specified date, using standard methodology, employing common data, and allowing for statistical testing.
Mill rate	A mill is one-thousandth of one dollar (\$0.001). The mill rate and the tax rate are synonymous. Mill rates, however, are often expressed in dollars per hundred or dollars per thousand (of assessed value). Example: Tax = 3,000 Assessed value = 100,000 Mill Rate = $\frac{3,000}{100,000} = 0.30 = 30 \text{ mills}$ This can also be expressed as \$3.00 per hundred or \$30 per thousand.
Notice of Assessment	A written notification to a property owner of the assessed value of certain properties described therein; mandated by law to be given to each real property owner following a change in the assessment of the property from the prior year's assessment.
Overassessed	A condition wherein a property is assessed proportionately higher than comparable properties.
Parcel identification number (PIN)	An identification number, which is assigned to a parcel of land to uniquely identify that parcel from any other parcel within a given taxing jurisdiction.
Property record card	A document designated to record and process specified property data; may serve as a source document, a processing form; and/or a permanent property record.
Reassessment:	This is the <i>redoing of the existing assessment roll</i> because of substantial inequities. All the property of the district is viewed, valued, and placed in the new assessment roll, which is then substituted for the original roll.
Recuse	To disqualify oneself from hearing an objection due to interest or prejudice, as defined by law.

Revaluation:	This is the <i>determination of new values for an upcoming assessment year</i> . The previous year's assessment roll is not affected. The term is often used in conjunction with §70.055 of the Wisconsin Statutes where expert help can be hired to work with the assessor in revaluing the district.
Sales ratio study	A statistical analysis of the distribution of assessment or appraisal-to-sale ratios of a sample of recent sales. The sales ratio study measures the performance of the assessor. The primary statistical measure is the coefficient of dispersion (COD). The lower the COD, the higher the quality of the assessments.
Tax bill	An itemized statement showing the amount of taxes owed for certain property described therein and forwarded to the party(s) legally liable for payment thereof.
Tax exemption	Either total or partial freedom from taxation granted by specific state statute.
Tax levy	In reference to property taxes, the total revenue which is to be realized by the tax.
Tax mapping	The creation of accurate representations of property boundary lines at appropriate scales to provide a graphic inventory of parcels for use in accounting, appraising and assessing. Such maps show dimensions and the relative size and location of each tract with respect to other tracts. Also known as assessment maps and cadastral maps.
Tax Rate:	The ratio of the property tax levy to the base. The tax rate is determined by dividing the amount of the tax levy by either the total assessed value or the equalized value of the tax district. It is often expressed in terms of dollars per thousand. It is synonymous with the term <i>levy rate</i> .
Tax roll	The official list showing the amount of taxes, special assessments, and charges levied against each parcel and item of personal property in the municipality.
Taxation	The right to tax property for support of the government.
Taxation district	A town, village, or city. If a city or village lies in more than one county, that portion of the city or village which lies within each county.
Taxing jurisdiction	Any entity that is authorized by law to levy taxes on general property which is located within its boundaries. (see s. 74.01(7), WI Stats). In addition to towns, villages, and cities, this includes school districts, sewerage districts and lake rehabilitation districts, for example.
Uniformity	A condition where all non-agricultural properties are assessed at the same ratio to market value, or other standard of value depending upon the particular assessing practices followed.
Use Value	The value a specific property has for a specific use.
Use Value Assessment	An assessment based on the value of property as it is currently used, not on its market value.

Board of Review Statutory Index

Topic	Sub-Topic	Statute
Profile of BOR	Organization	70.46
	Statutory Authority.....	70.46, 70.47
	Membership of Board.....	70.46
	Duties of the Board	70.47(6)(6m)(7)(8)(9)(10) (12)
	Duties of the Clerk	70.46(1)(2)
		70.47(2)(3)(4)(5)(6m)(6r)
		(7)(8)(9)(12)(17)
		70.48, 70.52, 70.57
	BOR Records	70.45, 70.46, 70.47, 70.48,
		70.49, 70.50, 70.52
	Duties of Chairperson	70.47
	Duties of Assessor	
	Prior to BOR	70.365, 70.45, 70.49, 70.50
	At BOR	70.46(1), 70.47(7)(af), 70.48
	Duties of Property owner	70.35(4), 70.47(7)(a to af),
Hearings		70.47(13)(16)(a)
	Removal of Members	70.47(6m)
	Notices.....	70.365, 70.47(2)(3)
	a) Assessment change.....	70.365
	b) Meeting	70.365
	c) Hearing.....	70.47(2m)
	Public Records	70.45, 70.47(8), 70.52
Hearings - General Proceedings	Meeting Date	70.47(1)
	Meeting Location	70.47(1)
	Meeting Length	70.47(3)(a),(b)
	Selection of Offices.....	70.47(3)(a)
	Alternate Meeting Dates.....	70.47(3)
	Alternate Meeting Notice	70.47(3)
	Assessment Roll Not Complete.....	70.47(3)
	Who Can Appear At BOR.....	70.47(8)
	Swearing Witnesses	70.47(8)(a)
	Order of Testimony	70.47(8)(b)
	Examination By Board Members	
	Subpoena of Witnesses	70.47(8)(d)
	Adjournment	70.47(3)(aL), (4)
	Notice of Determination	70.47(12)
	Recording Testimony	70.47(8)(e)

Topic	Sub-Topic	Statute
Hearings	Assessor's Affidavit	70.49
Presentation of Evidence	Presumption of Correctness	70.47(8)(i)
	Burden of Proof	70.47(7)(ae)(af), (8)(h), (9)
	Sworn Oral Testimony	70.47(8)
	Creditable Evidence	70.47(7)(8)
Hearings -	Objection Form	70.47(7)(a)
Filing an	When Objections Can Be Filed	70.47(7)(a)
Objection	Time of Hearing	70.47(3)(ah), (7)(a)
	Waiving of 48 Hour Notice	70.47(3), (7)(a)
	Completing Objection Form	70.47(7)(a)
Hearings -	Who Can Appeal	70.47(8)
Oral	Order of Testimony	70.47(8)
Testimony	Sworn Oral Testimony	70.47(8)
	Swear of Assessor	70.47(8)(a)
	Assessor's Testimony	70.48
	Evidence Considered by Board	70.47(8)(9)
Witnesses	Call by Board	70.47(8)(d)
	Witness Expenses	70.47(8)(e)
	Assessor Attendance	70.48
Quorum	Majority Requirement	70.47(1)
	Number of Members Required	
	to Hold Hearing	70.47(1), (6m)(c)
	Requirements to Vote	70.47(9)(b)
	Tie Votes	70.47(9)(a)
Decisions	After Hearing All Evidence	70.47(9)
	Deliberations	70.47(6), (8)(g), (9)
	Evidence Considered	70.47(7)(ad to af) (8) (9)
	BOR Member Fraud	70.502
Notice of Decisions	Prepared by Clerk	70.47(12)
	When Prepared	70.47(12)
	Appeal Rights	70.47(13), 70.85
Summary of Proceedings	Prepared by Clerk	70.47(17)
Appealing BOR Decision	Required Information	70.47(17)
	Circuit Court	70.47(13)(16)
	a) Review of Record	70.47(13)(16)
	b) Remand Back to BOR	70.47(13)
	c) Review Process	70.85
	Court of Appeals	
	Supreme Court	

Board of Review Forms

PA-115A Objection Form RE

OBJECTION FORM FOR REAL PROPERTY ASSESSMENT

Section 70.47(7)(a), Wis. Statutes states "No person shall be allowed in any action or proceedings to question the amount or valuation of property unless such written objection has been filed and such person in good faith presented evidence to such board in support of such objection and made full disclosure before said board. . ."

Note: The Board of Review can hear only sworn oral testimony regarding the value of the property. It cannot hear protests regarding the amount of property taxes or questions of exemption. The best evidence of the value of your property is a recent arm's-length sale of your property. The next best evidence is recent arm's-length sales of comparable property. If there are no sales of your property or comparable property, you should present other evidence that indicates the value of your property. This would include cost, income, appraisals, amount of insurance, and sales of like property.

Property Owner	Agent (if applicable)
Owner's Mailing Address	Agent's Mailing Address
Owner's Telephone Number	Agent's Telephone Number

Please provide the following information on the property and the assessment to which you are objecting. *(Attach additional sheets, if necessary.)*

1. Property Address _____
2. Legal Description or parcel number from the current assessment roll _____
3. Total Property Assessments _____
4. Please explain why you think the above assessed value is incorrect. _____

5. Please state your opinion of the fair market value of the property as of January 1. _____

6. (a) What is the present age of the structure? _____

- (b) Please check the method of acquisition of the property:

Method of Acquisition	Date	Acquisition Price
<input type="checkbox"/> Purchase		
<input type="checkbox"/> Trade		
<input type="checkbox"/> Gift		
<input type="checkbox"/> Inheritance		
<input type="checkbox"/> Construction		

7. (a) Have you improved, remodeled, added to, or changed this property since acquiring it? ☐ Yes ☐ No
- (b) Describe _____
- (c) When were the changes made? _____
- (d) What were the cost of the changes? _____
- (e) Does the above figure include the value of all labor, including your own? ☐ Yes ☐ No
8. (a) Have you listed the property for sale within the last five years? ☐ Yes ☐ No
- (b) If yes, when and for how long was the property listed? _____
- (c) What was the asking price? _____
- (d) What offers were received? _____

9. (a) Has anyone made an appraisal of this property within the last five years? ☐ Yes ☐ No
- (b) If yes, when and for what purpose? _____

- (c) What was the appraised value? _____

- (d) How much and what type of fire insurance is carried on the property? _____

10. Please list all other real estate in the municipality that you own:

Legal Description or Parcel Number	Assessment Total

11. If you are requesting the removal of a Board of Review member, please list their name. _____

NOTE: This section does not apply in first or second class cities.

Owner's or Agent's Signature	Date
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Board of Review Forms

PA-115B Objection Form PP

OBJECTION FORM FOR PERSONAL PROPERTY ASSESSMENT

Section 70.47(7)(a), Wis. Statutes states "No person shall be allowed in any action or proceedings to question the amount or valuation of property unless such written objection has been filed and such person in good faith presented evidence to such board in support of such objection and made full disclosure before said board. . ."

Note: The Board of Review can hear only sworn oral testimony regarding the value of the property. It cannot hear protests regarding the amount of property taxes or questions of exemption.

Property Owner	Agent (if applicable)
Owner's Mailing Address	Agent's Mailing Address
Owner's Telephone Number	Agent's Telephone Number

Please provide the following information on the personal property assessment to which you are objecting. *(Attach additional sheets, if necessary.)*

1. The personal property is located at _____

2. Assessment:

Boats and Other Watercraft	\$ _____
Machinery, Tools, and Patterns	\$ _____
Furniture, Fixtures, and Equipment	\$ _____
All Other Personal Property	\$ _____
Total Assessment of All Personal Property	\$ _____

3. Please explain why you think the above assessed value is incorrect. _____

4. Please state your opinion of the true cash value of the personal property as of January 1:

Boats and Other Watercraft	\$ _____
Machinery, Tools, and Patterns	\$ _____
Furniture, Fixtures, and Equipment	\$ _____
All Other Personal Property	\$ _____
Total Assessment of All Personal Property	\$ _____

5. Please list all personal property in the municipality you own but are not appealing:

Description of Personal Property	Assessment
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____

6. If you are requesting the removal of a Board of Review member, please list their name. _____
NOTE: This section does not apply in first or second class cities.

Owner's or Agent's Signature	Date
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Board of Review Forms

PA-800 Summary of BOR

SUMMARY OF BOARD OF REVIEW PROCEEDINGS

Sections 70.47 (12) & (17), Wisconsin Statutes

See reverse side for instructions.

Page _____ of _____ Pages

TAXPAYER'S NAME	PROPERTY DESIGNATION PARCEL NUMBER AND COMPUTER NUMBER	ASSESSMENT APPEALED BY TAXPAYER	C L A S S			BOARD OF REVIEW		PERSONS APPEARING ON TAXPAYERS BEHALF
			Amount	Date	Value Determination	Notice Delivered/Mailed Date & Initials		
							Amount	
		Land						
		Land						
		Land						
		Improvements						
		Total Real Estate						
		Personal Property						
		Land						
		Land						
		Land						
		Improvements						
		Total Real Estate						
		Personal Property						
		Land						
		Land						
		Land						
		Improvements						
		Total Real Estate						
		Personal Property						
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		Land						
		Land						
		Improvements						
		Total Real Estate						
		Personal Property						
		Land						
		Land						
		Land						
		Improvements						
		Total Real Estate						
		Personal Property						
		Land						
		Land						
		Land						
		Improvements						
		Total Real Estate						
		Personal Property						

Clerk's Affidavit

I, the undersigned declare that I have personally prepared this report and to the best of my knowledge and belief it is true and correct. As required by Section 70.47(12), prior to final adjournment the Notices of Decision of the Board of Review have been provided by personal delivery or mailed on the date indicated.

PA-800 (R. 8-89)

Clerk, Board of Review

Date

Board of Review Forms

PR-302 BOR Determination Notice

NOTICE OF BOARD OF REVIEW DETERMINATION

IN ACCORDANCE WITH Section 70.47(12) of the Wisconsin Statutes you are hereby notified of your assessment for the current year 20____ as finalized by the Board of Review for the property described. IF YOU WISH TO APPEAL THIS ASSESSMENT FURTHER, SEE THE REVERSE SIDE.

Town, Village or City of:		Date:	
Parcel No.:			
Legal Description or Property Address:			
____ ORIGINAL ASSESSMENT		____ FINAL ASSESSMENT As Determined by Board of Review	
Land		Land	
Improvements		Improvements	
Pers. Prop.		Pers. Prop.	
Pers. Prop.		Pers. Prop.	
Pers. Prop.		Pers. Prop.	
TOTAL PERSONAL PROP.		TOTAL PERSONAL PROP.	
TOTAL ALL PROPERTY		TOTAL ALL PROPERTY	

PR-302 (R. 6-03)

FURTHER APPEAL PROCEDURES

There are four avenues available to you if you are not satisfied with the Board of Review decision as shown below. Please note that each of these appeal options has definite filing requirements which must be met.

Section 70.47(13) provides for an appeal of a Board decision to the circuit court by an action for certiorari. No order will be issued by the court unless the petition is made within 90 days after the taxpayer receives notice of this Board's decision. No new evidence may be submitted; the court decides the case solely on the basis of the written record made at the Board of Review.

Section 70.85 provides for a written appeal of the Board's decision to the Department of Revenue within 20 days after receipt of the Board of Review's determination or within 30 days after the date specified on the affidavit under section 70.47(12) if there is no return receipt. A \$100 filing fee is required. The fair market value of the items or parcels being appealed cannot exceed \$1 million dollars. The Department may revalue the property any time before November 1 of the assessment year or within 60 days after receiving the appeal, whichever is later. If adjusted, the value is substituted for the original value and taxes paid accordingly. Appeal of the Department's decision is to the circuit court.

Section 74.35 provides an appeal to the municipality for the recovery of an unlawful tax. An unlawful tax is: a clerical error in the description of the property or the computation of the tax, the assessment of real property improvements that did not exist on the assessment date, the property is exempt from taxation, the property is not located in the municipality, a double assessment was made, or an arithmetic, transpositional or similar error has occurred. The taxpayer need not appear at the Board of Review to pursue this appeal.

Section 74.37 provides for an appeal to the municipality for an excessive assessment. The taxpayer must have appealed to the Board of Review and cannot have appealed the Board's decision to circuit court or to the Department of Revenue.

No claim or action for an excessive assessment may be brought under sections 74.35 or 74.37 unless the tax for which the claim is filed, or any authorized installment of the tax, is timely paid. The claim for taxes paid to the wrong municipality must be filed with the municipality within two years of the last date specified for timely payment of the tax. All other claims under sections 74.35 or 74.37 must be filed with the municipality by January 31 of the year in which the tax is payable. If the municipality denies the claim, the taxpayer may appeal to circuit court within 90 days after receiving notice by registered or certified mail that the claim is disallowed.

Board of Review Forms

Clerk's Training Affidavit

**Board of Review Member Training Affidavit
—To be Completed by the Municipal Clerk—**

(Sec. 70.46 (4), Wisconsin Statutes)

Wisconsin Statutes require at least one Board of Review voting member to have attended training before a board can be constituted. The purpose of this affidavit is to ensure that this requirement has been satisfied.

STATE OF WISCONSIN

County of _____

County/Municipal Code _____

I, _____, the clerk for the _____
(Print Name) (Town, Village, City)

of _____ in _____ County swear that the municipal
(Municipality Name) (County Name)

chief executive or designee has attended a Department of Revenue approved board of review training program within two years of the board's first meeting in accordance with sec. 70.46(4), Wisconsin Statutes.

Name of members receiving the training:

(Print Names) (Date attended)

Date

Clerk's Signature

70.46 (4) No board of review may be constituted unless it includes at least one voting member who, within 2 years of the board's first meeting, has attended a training session under 73.03 and unless that member is the municipality's chief executive officer or that officer's designee. The municipal clerk shall provide an affidavit to the department of revenue stating whether the requirement under this section has been fulfilled.

PLEASE NOTE: This affidavit should be sent before the board of review convenes. This is a mandatory filing by Statute. If the document is not filed with the Department, *the Board of Review may not be valid.*

Return to:

Wisconsin Department of Revenue
Bureau of Assessment Practices
BOR, M/S 6-97
PO Box 8971
Madison, WI 53708-8971